

December 23, 2014

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Via U.S. Mail

Jannine Jennings  
US EPA REGION 10  
1200 Sixth Avenue  
Mail Code: ECL-113  
Seattle, WA 98101

RE: *DJ #90-7-1-8891/1*  
Resolution of Dispute Regarding Bill No. 2701426S0065

Dear Ms. Jennings:

Thank you for providing backup documentation for EPA's Bill No. 2701426S0065 for government response oversight activities at the EMF-Simplot Site (the "Bill"), as well as the December 1, 2014 conference call to discuss the J.R. Simplot Company's ("Simplot") objections to the portion of the Bill reflecting costs incurred by the Shoshone-Bannock Tribes and Idaho DEQ under EPA cooperative agreements and EPA's related indirect costs.

Simplot has now had an opportunity to review the documents you provided. Particularly helpful were the Idaho DEQ's and Shoshone-Bannock Tribes' work plans, which provided some explanation of the activities encompassed by the contested portion of the Bill and how they relate to the EMF-Simplot Site.

Based on review of the backup documentation, Simplot withdraws its objection to the contested portion of the Bill. In doing so, Simplot does not concede that the costs incurred by the State and the Tribes were consistent with the NCP, or that EPA is entitled to charge indirect costs on costs that are incurred by states or tribes under cooperative agreements. Simplot will, however, release the funds that have been held in escrow while this dispute has been pending.

Simplot does request that EPA provide copies of the Idaho DEQ and Shoshone-Bannock Tribes' Cooperative Agreement Work Plans for 2014 and 2015. EPA's billing statements do not provide sufficient information regarding tasks proposed or performed by the State or the Tribes to evaluate whether those tasks actually relate to the EMF-Simplot Site and are consistent with the National Contingency Plan. Simplot also remains concerned about the potential for double billing under its separate cost recovery agreement with Idaho DEQ.

For the same reasons, Simplot also requests an opportunity to review the work plans for 2016 when they are being developed. Simplot is afforded this opportunity under other EPA consent decrees, and should be afforded the same courtesy for future work plans related to the EMF-Simplot Site.

Sincerely,



Svend A. Brandt-Erichsen

cc: Alan Prouty (Simplot)  
Joan C. Shirley (EPA)